



UNITED STATES PATENT AND TRADEMARK OFFICE

20 OCT 2009

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

In re Application of COHEN et al :  
U.S. Application No.: 10/591,538 :  
PCT Application No.: PCT/IB2005/000896 :  
Int. Filing Date: 04 March 2005 : DECISION  
Priority Date Claimed: 04 March 2004 :  
Attorney Docket No.: 065691-0466 :  
For: PREPARATION OF RECOMBINANT :  
ROTAVIRUS PROTEINS IN MILK. ... :

This is in response to the renewed request for status under 37 CFR 1.42 filed 19 August 2009.

**BACKGROUND**

On 04 March 2005, applicant filed international application PCT/IB2005/000896, which claimed priority of an earlier European Patent Office application filed 04 March 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 15 September 2005. The thirty-month period for paying the basic national fee in the United States expired on 04 September 2006.

On 01 September 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 April 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated that an oath or declaration under 37 CFR 1.497 must be submitted.

On 23 June 2008, applicant filed a request for status under 37 CFR 1.42 along with executed declarations.

On 28 January 2009, this Office mailed a decision dismissing the 23 June 2008 request for status.

On 19 August 2009, applicant filed the present renewed request for status under 37 CFR 1.42 along with a newly executed declaration.

### DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 19 August 2009 is in compliance with 37 CFR 1.42 and 1.497.

### CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 04 March 2005, and a date under 35 U.S.C. 371(c) of 19 August 2009.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459